



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** AZTEK  
**File:** B-229750.3  
**Date:** April 13, 1988

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### **DIGEST**

Protest that low offeror in two-step sealed bidding procurement cannot adequately perform maintenance at the cost it bid concerns the offeror's responsibility and General Accounting Office does not review affirmative determinations of responsibility in the absence of conditions not present here.

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### **DECISION**

AZTEK protests the award of a contract to Images II under solicitation No. M00027-87-B-0031 for computer graphics systems issued by the United States Marine Corp.

We dismiss the protest.

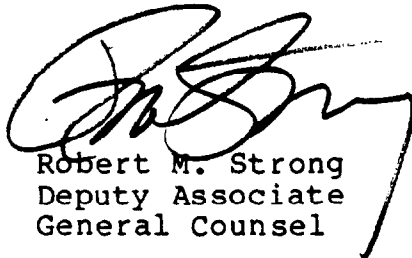
The Marine Corps issued the solicitation using two-step sealed bidding procedures. As the first step, the agency issued a request for technical proposals. Only the firms determined to be technically acceptable were allowed to submit pricing information in step two. The Marine Corps received five technical proposals and, after evaluations, determined that all five were acceptable. The Marine Corps published a notice stating the names of five technically acceptable firms in the Commerce Business Daily on November 12, 1987. On December 7, 1987, Genigraphics Corporation, another bidder, filed a protest with our Office. We dismissed the protest on January 26, 1988, because Genigraphics failed to timely respond to the agency report as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1987), and the Marine Corps awarded the contract the next day. Aztek received copies of the abstract of bids and the Genigraphics protest on January 22, 1988. It filed its protest with our Office on January 29.

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Aztek argues in its protest that after reviewing the Genigraphics protest materials, it agreed with Genigraphics that Images II could not meet certain specifications. The Marine Corps responded to this allegation in its report, but Aztek did not rebut the agency's response in its comments on the report. We therefore consider the issue abandoned and will not consider it further. PacOrd, Inc., B-224249, Jan. 5, 1987, 87-1 CPD ¶ 7.

The remaining issue in Aztek's protest is Aztek's contention that because Images II's price for maintenance requirements is one-fourth the price of all other bids, Images II cannot perform the required level of service. The fact that Images II may have submitted a bid price that will not cover its cost provides no basis for protest. A prospective contractor's ability to perform the contract at the price it offered is a matter of responsibility for the agency to determine before contract award. Our Office will not review an affirmative determination of responsibility in the absence of a showing of possible fraud or bad faith by the procuring officials or that definitive responsibility criteria may not have been met. Peter Gordon, B-224011, Sept. 15, 1986, 86-2 CPD ¶ 300. Neither exception has been shown in this case.

The protest is dismissed.



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General Counsel